





(From the *Afternoon Telegram*.)

A QUESTION of considerable importance to commercial men—as to the character and operation of bond certificates—may now be considered as pretty well settled. There have been two decisions by the Supreme Court of the colony upon this subject, one pronounced a considerable time back, and the other during the present term. By the first of these—*FRASER v. EVANS*—it was held that such certificates will legally pass current from hand to hand as representatives of the goods therein named, so that a transfer of the certificate will operate as a transfer of possession of the goods themselves. By this last case—*BARLOW v. WOOLCOTT*—it has been decided that such transfer will only (unless in certain extraordinary cases) give to the transferee such a possession of the goods, or such a right of possession, as belongs lawfully to the transferor.

The two cases must be taken together. If this is done it will be found that they are quite consistent with each other. But there is some reason for believing that the decision of the Court in *FRASER v. EVANS* was generally considered to have had more comprehensive operation than the Court intended to give it or than the nature of the case, considered and interpreted in a lawyerlike manner, would warrant. The certificates forming the subject matter of that case had been purchased and transferred by endorsement without any record of such purchase and transfer in the books at the bonding store, or any notice of the transaction to the storekeeper. It was held that such a delivery, *bona fide*, and for valuable consideration, of the certificates, would operate as an actual delivery of the goods, which such certificates represented. In other words, that the certificates were complete indicia of possession, and as such could be passed from hand to hand (like a bill of exchange or a bank-note) in the ordinary course of business. It was not unnatural, therefore, that people who were not well read in the *Lex Mercatoria*, and who did not pause to consider the nice distinctions to be drawn between "possession" and "property" should confound one with the other, and regard these certificates as negotiable instruments in the ordinary and fullest sense of the term. As instruments, that is to say, which, like a bill of exchange or a cheque, would pass lawfully, the property which they represented, to any transferee for valuable consideration who had been guilty of neither fraud nor negligence, notwithstanding that such instruments might have been found, or even stolen, by the transferor. Bank notes, bills of exchange, cheques, and other instruments of like nature, which by mercantile usage are accepted as representatives of money, have an exceptional value. They constitute in themselves a part of the national currency, and by well-acted usage give absolutely, on delivery (unless where there has been fraud or negligence by the receiver), a right to the money—the pounds, shillings, and pence—of which they are the symbols. The certificates of goods in bond, being only symbols of the possession of goods, only pass such possession from the transferor to the transferee. The holder of every such certificate, no matter how he has become possessed of it, is, no doubt, by legal construction to be regarded as the holder, for the time being, of the goods which it represents. By transferring the certificate, for valuable consideration—and without any fraud on the part of the transferee—he passes to such transferee as complete a possession of the goods as if they were bodily handed over. But he does no more. As the owner of any goods which had been stolen or lost, or had otherwise got out of his possession without delivery, actual or constructive, could recover them from even an innocent purchaser, so can the real owner of goods represented by certificates of which he has, in a similar manner, been unlawfully deprived maintain his property therein. In the case of *BARLOW v. WOOLCOTT*, the certificates sued upon had been deposited with the defendant as security for a loan by a person whom the defendant believed to be the owner of such certificates, and of the goods which they represented. The defendant was, in fact, "a bona fide transferee for value," and had no notice or reason to believe that the certificates had been dishonestly obtained by the transferor. But it turned out that they had been stolen by such transferor from the plaintiff, their true owner. The Court held that this transfer of the certificates would not, under such circumstances, operate as an absolute transfer of property in the goods. That no "custom" (assuming such to exist) to regard these instruments as conferring ownership absolutely and under all circumstances—subject only to the condition of *bona fides* and due care—on every transferee of them for value would be valid in law. The transfer of such certificates, therefore, although it passes to the transferee a constructive "possession" of the goods, conveys only, as we have already stated, such a "property" in them as the transferor himself has, except in some few very exceptional cases—as where the owner of the certificates has been directly contributory to his own wrong.

The legal principles established by the two cases are thus summarised in the concluding paragraph of Sir ALFRED STEPHEN'S judgment:

"All difficulty, in short, as it appears to us, is overcome, in every case of this kind, by simply considering the bill of lading, or the dock warrant, or bonding certificate,—as the representative of, and only equivalent to, the goods themselves as indicated therein. The vendee of goods, who by his vendor's assent gets possession of them, can transfer them to a third party for value to any one. After delivery, the right of reversion for fraud, and the right of assent to a third party, are still in such vendor—as against the fraudulent or insolvent vendee. But, inasmuch as the delivery to such vendee of a bill of lading, or warrant or certificate, indicating the purchased goods is equivalent delivery and possession of the goods themselves, those rights cease, upon a sub-transfer and similar delivery,—as against the innocent transferee. This was all which was decided in *FRASER v. EVANS*. We are now asked to decide, however, that one who is not a vendee, and who has not obtained possession either of goods, or of the symbol and representative of them, by any consent or assent of the owner, can nevertheless transfer both by stealing and transferring that symbol,—and we hold that there can be no effective transfer by such means."

That this is a correct exposition of the law there can, we apprehend, be little (if any) doubt. In every case the decisions of the Supreme Court must be regarded as "good law" until they are reversed by the Privy Council. By the rules thus laid down, therefore, our mercantile men must be guided. It is events that there has been no opportunity for doing this judicially—until now. At all events it is well that some clear and comprehensive principles have been at length enunciated in reference to this important subject.

A wag objects to Indian surra on the ground that sed men are addicted to tampering with the poles.

## LAW.

## SUPREME COURT.—MONDAY.

SITTING IN BANC.

REPORT BY HIS HONOUR SIR ALFRED STEPHEN, C.J., MR. JUSTICE HARRISON, AND MR. JUSTICE CHURCH.

JUDGMENT.

SIR ALFRED STEPHEN, C.J., delivered the judgment of the Court here as follows:—

The plaintiff in this case, complain, that sundry goods of theirs—which the defendant had as a carrier brought to this colony for them, but had detained for his own use, arising as to the amount, were kept by him in the warehouse of the defendant, and that, contrary to his duty in that behalf, that the same were injured.

The defendant in his fifth plea, in answer to that complaint, that the freight for those goods was payable in cash before delivery, that his vessel arrived with them, and that he received the goods according to his contract, from the ship's tackle; but that the plaintiff refused to receive them;—that the defendant therefore landed the goods, after a reasonable time, at a reasonable hour, and at a convenient and accustomed wharf, and that the plaintiff, although they had notice of the premises, refused to pay the freight due for the carriage; wherefore the defendant detained the goods, at the wharf aforesaid, for and on account of the said freight.

The plea then states, that afterwards, and while the said goods were so detained, they became damaged by rain without any "misfeasance" on the defendant's part (which says the plea); and that the plaintiff, in the said second plea, then then for the first time, alleged, that afterwards the plaintiff paid the said freight; whereupon the defendant allowed them to remove the goods.

The plaintiff denies this plea, on the ground that it does not allege performance of all such acts, for the protection of the goods while so detained, as the defendant was bound to do,—so that, consistently with the plea, the defendant may have negligently "misfeasance" acts which would have caused the damage to the goods.

The defendant, on the ground that the plea is admitted, the right to detain them for the cause stated is admitted; but the defendant's clear duty thereupon was, to take the goods to the wharf, and to deliver them to the plaintiff, or his own direction, whether the master of a ship or other person, to whom freight is due for the conveyance of goods, has received the same, or not.

The plea then states, that the defendant, after the receipt of the freight, did not deliver the goods to the plaintiff, but that he retained them, and that he had done so, "misfeasance" only.

The plea may, on the usual terms, be amended in this respect,—to show that the defendant, after the receipt of the freight, did not deliver the goods to the plaintiff, but that he retained them, and that he had done so, "misfeasance" only.

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being that the verdict of the jury was against evidence, and, perceiving, being in direct opposition to the direction of the Judge who tried the case, Mr. Justice Choke.

The Solicitor-General appeared in support of the motion, and Mr. M. H. Stephens and Mr. James in support of the verdict.

The motion was brought to recover possession of a small piece of land on which a butcher's shop had been erected, and which was claimed by the plaintiff, who had been subsequently released. Defendant sought to retain possession under a lease granted by Morgan, prior to his insolvency, of a public-house and appurtenances, erected on the land, and which was claimed by the plaintiff, who had been subsequently released.

The question was, whether the premises in question were, at the time of the making of the lease, a "public-house," and, if so, whether at the time of making such lease Morgan had a title enabling him to grant such lease. The plaintiff claimed by purchase from the official assignee of Morgan, and also as representing certain mortgages in the land, and who had been subsequently released. Defendant sought to retain possession under a lease granted by Morgan, prior to his insolvency, of a public-house and appurtenances, erected on the land, and which was claimed by the plaintiff, who had been subsequently released.

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case were claimed by Samuel Law, and the others by John Law, and the female prisoner said that she was housekeeper for John Law, the wife of Thomas Law, residing at the Globe, and that the articles found in the Court are the property of her husband, and that she had no money, and was unable to pay the costs of the trial.

The other prisoners were further committed for trial in respect of several other articles found at their residence, which were claimed by Mrs. Howings, of the Globe, which were stolen from a friend from the trunk her prisoner, on either the 4th or 5th of the morning of the 5th March.

Charles Cliss, charged with having stolen one gold chain, one pair of earrings, and two lozenges, valued at 10s., the property of Robert Black, pleaded guilty, and was sentenced to a penalty of 20s., or to be imprisoned for four days.

William Porter was charged with embezzlement. Hugh Cliss, of Brixton-street, commission agent, deposed that in July last, he employed Porter as a collector, and that he had received 2 per cent. on the sales effected and on the proceeds collected. Porter was charged with having received 2 per cent. on the sales effected and on the proceeds collected.

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Charles Cliss, charged with having stolen one gold chain, one pair of earrings, and two lozenges, valued at 10s., the property of Robert Black, pleaded guilty, and was sentenced to a penalty of 20s., or to be imprisoned for four days.

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Porter was charged with having received 2 per cent. on the sales effected and on the proceeds collected. Porter was charged with having received 2 per cent. on the sales effected and on the proceeds collected.

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## MERCANTILE AND MONEY ARTICLE.

MONDAY EVENING.			
The Customs revenue received to-day was as follows:—			
Brandy	...	...	£14 8 3
Wine	...	...	113 10 11
Rum	...	...	6 5 0
Whisky	...	...	122 10 11
Wine	...	...	32 11 5
Ala, porter, and beer (in wood)	...	...	174 0 0
Tobacco and snuff	...	...	31 13 11
Tea	...	...	385 10 0
Coffee and ebony	...	...	12 10 0
Pepper (sundried)	...	...	503 10 10
Pilgrage	...	...	35 15 0
Ala	...	...	4 0 0
Ad valorem	...	...	194 5 6
<b>Total</b>	...	...	<b>£2743 12 4</b>

The Mary and Edith, from Puget Sound brings 316,000 feet of lumber.

The import markets have opened without any change in prices. The few sales effected at last week's quotations were almost of a retail character. Ration sugars are much wanted at full rates. The flour market maintains the firm tone noticed on Saturday. Best Adelaide brought £14 10s. for bakers' parcels and continues in request.

The monthly meeting of the committee of the Chamber of Commerce was held at the Exchange, this day. Mr. J. B. Watt the chair-

...presiding. There were present, also, the following members—Messrs. George King, J. S. Willis, R. Molineaux, Robert Rome, and John Keep. A report was presented by the deputation appointed the 28th February to enquire upon the Honorable the Postmaster-General's proposal to debar the mails from service by the Government, if carried by mail service by the Government, alternating every twenty-eight days with the service by steamer. The Postmaster-General expressed his concurrence with the recommendation of the deputation; but the Queensland Government not having yet acceded to the proposal made, no definite arrangement had been entered into. The deputation, however, was informed by the vessels dispatched to San Francisco, and by Messrs. James Skinner, James Watson, and W. D. Stewart were duly elected members of the Chamber; and Messrs. Charles Smith, J. S. Mitchell, Alexander Learmonth, and Frederick Mitchell were appointed members of the committee.

[illegible][illegible][illegible]

are quite at a loss to understand how they have drawn down the wrath of the Minister for Works upon their own heads. The Minister has no objection to the use of the word "wheat" in the title of the bill, but the correction was intended; it was an error in classification, and the correction of which is very simple, and if I may be allowed to make a suggestion to the great signatory, he will be glad to have the bill amended so as to read "to wheat and the produce thereof." This, Sir, is a measure which does not affect the country people only, it concerns the whole of the colony, in the supply of food and wheat. I have since then. It is a fact worth noting that the small acreage given in Sydney that amongst the bakers preference is given and a higher price paid for country-made flour. The quality of the flour is not so good as that of the imported qualities, and this will become more and more apparent as the facilities are afforded through the railway; but not only is the protective and controlling policy now carried out by the Railway Department, but the Government is also unwilling to suffer wheat and flour to be sent to Sydney, as it is, and forces the squatter and grower to send their cattle and sheep to Sydney, and to pay a higher price for their produce, making a difference of 200 per cent. extra for the slaughtered animal in Sydney, and 60 per cent. extra for the live animal.

Surely such outrageous inequalities should not have been allowed to exist in our railway tariff for the past six months by the "Collective Willing" of the country squatters, who have been the cause of the Government being the new men for Argyle? What are the men who are Bathers, Goulburn, Orange, Mudgee, &c., and others, who cultivate wheat-growing districts doing for their own constituents?

**AN INJURED COUNTRYMAN**

REVEREND TOBACCO.—R. P. F. Rubbs and Dr. Green, who have been the cause of the Government being the new men for Argyle? What are the men who are Bathers, Goulburn, Orange, Mudgee, &c., and others, who cultivate wheat-growing districts doing for their own constituents?







VALUABLE TOWN PROPERTIES IN THE

TOWN OF MUSWELLBROOK  
TOWN OF ABERDEEN.

WATSON and CO. are favoured with

Lot 1.—South Muswellbrook—Stone cottage of 6 rooms, well and faithfully built kitchen and servants' room, and out-buildings, complete.

Lot 2.—Aberdeen—Stone cottage of 5 rooms, also well and faithfully built, kitchen, servants' room, with convenient out premises.

For a full description of these REALLY VALUABLE TOWN PROPERTIES, see the S.M. HERRARD'S of the 2nd, 5th, 10th, 12th, and 14th February, and March, or, apply at the Rooms, 246, Pitt-street, Sydney.

Terms at sale  
 Day of Sale, 21st March.  
 Title—Torrens's Act.  
 Valuable Lease near Gosnells, adjoining the BAW BAW  
 ESTATE for sale on the above-named date.  
 DAWSON and CO. have received instructions from F. R. L. Rossi, Esq., to sell by public auction, at their Rooms, 246, Pitt-street, Sydney, on MONDAY, the 21st instant, at 11 a.m.,

WEDNESDAY, 16th March.

**WREEDHOLD PROPERTIES,** by public auction,  
**MORT'S ROOMS, Pitt-street,** at 11 o'clock, on  
**WEDNESDAY, 16th March.**

**WARATAH,** Choice block of land  
near Newcastle, comprising 25 acres  
of wood, about 2½ miles  
from Newcastle, and  
a mile north from the  
Hunter River Railway.

**CRESCENT-STREET,** Two-story brick house  
Kent-street, adjoining the Prince  
Arthur Hotel.

**ULLADULLA,** That valuable block  
Bond Harbour, property, comprising 5

**WOOLLAHRA,**  
Point Piper Road.

**PADDINGTON,**  
South Head Road.

**VALUABLE SHEEP STATION.**

**The pick of Peak Downs.**  
For Positive Sale, in consequence of the death of  
John Thorne, Esq.  
**HENRY BEIT** will sell by public auction  
at the Exchange, Sydney, TO-MORROW  
the 16th March, at 11 o'clock  
The well-known sheep-station,  
**COTTERSTONE,**  
containing 356 acres, well-improved  
country, situated on Broad Sound about 110 miles  
together with 49,000 SHEEP, more or less, and 8  
head of CATTLE—a quiet well-bred herd.

The sheep have been regularly and extensively culled and fresh ewes from Weststock and Madgwick introduced in a large portion of the run has been fenced in the usual substantial manner. The improvements are all new, substantial, and very complete.

This station is held under a lease for 21 years, and consequently one of the most valuable sheep properties in the district.

For full particulars apply to HENRY BEIT, 5, Wyndham-street, Sydney.

**FIRST-CLASS CATTLE STATION,  
near Port Darwin, Queensland.**

**HENRY BEIT** will sell by public auction at the Exchange, Sydney, **TO-MORROW** the 16th day of March, at 11 o'clock,  
That valuable cattle property, known as the **MOUNT MCCONNELL STATION**, situated on the Bogan River, between and between Belconnen, in the Southern Kennedy District, and comprising about 10,000 acres of first-class country, well watered and grazed.

With this station will be sold 2500 **HEAD**, more or less of quiet well-bred **CATTLE**.  
A very large amount has been expended in improving

**VALUABLE CATTLE PROPERTIES.**  
**WARREGO AND ANGELLALA RIVERS,**  
**QUEENSLAND.**

**HENRY BEIT** is instructed by Messrs M'Lean and Jamieson to sell by public auction, at the Exchange, Sydney, TO-MORROW the 16th day of March, at 11 o'clock, the following well-known watering stations, viz.:—  
**LOT 1.—BORRILLAN**, comprising 160 square miles on the Warrego and Angellala Rivers, part of which was formerly known as **RAVE'S** property.

watered and grazed, myall downs of the richest  
pasturage, improvements complete, to be sold with  
11000 (more or less) choice well-bred, quiet cattle  
conveniently the best hard on the Warrego. A LARGE  
PROFIT FOR MARKET.

**LOT 3—VICTORIA DOWNS**, comprising 105 square  
miles on the Angelsea River, the best of the  
beautiful downs, fine open box forest, and rich  
pasture, well watered, and free from grass-seed  
adapted especially for sheep or cattle, or both.  
This splendid country will be offered with  
stock.

**LOT 3—BRUNEL DOWNS SOUTH**, comprising  
about 40 square miles on the Angelsea River.

similar to Victoria Downs. To be sold with stock.

All these properties are for absolute sale to close partnership accounts. The properties are particularly valuable on account of their great fattening qualities and central position, being about equidistant from the Sydney, Adelaide, and Melbourne markets, where cattle from these have brought as high as 18s 17s. 6d. per head.

Further particulars on application to HENRY BRIDGES, Wyndham-street, Sydney.

**DISTRICT OF BLIGH AND LIVERPOOL PLAINS**

**FIRST-CLASS FATTENING STATIONS,  
URAWILKEY EAST  
URAWILKEY WEST  
CULROY  
GIBBAN,  
Also,  
320 ACRES OF PURCHASED LAND.**  
These Stations are bounded by the pastoral runs of Messrs.  
McCallister, Ridd, and Buchanan, and are situated in the  
postal townships of Coonabarabran and Coonamble & are  
together with 5000 fine-woolled **SHEEP** and 500 head  
of mixed well-bred **CATTLE**, to be mustered and  
delivered.

**SULLIVAN** and **TINDALE** have received instructions from the executors of the late James Hall, Esq., to sell by auction, at their commercial rooms, 388, George-street, Sydney, THIS DAY, 19th March, at 11 o'clock,  
The above well-known **FATTENING RUNS**, the property of the late James Hall, Esq.,  
**URAWILKEY WEST**,  
the house station, estimated area, 17,850 acres, watered by the Torridon Creek.  
On the western side of the creek are two allotments of 100 acres each, upon which are erected a well-built **HOUSE**, containing 10 rooms, all

This land is good order; kitchen, stable, and other outbuildings are large and sound, which is enclosed with substantial three-foot fence. The water improvements consist of a dam across the creek consist of paddock half-mile square enclosed by a three-rail fence; also, stockyard and sheep yard.

The above will be sold 600 head (more or less) WATERED AND CATTLE, all in first-rate condition, to suit the purchaser's requirements.

**URAWILKEY.**

Estimated area, 32,000 acres, together with 600 SHEEP mixed sexes, purchased from J. J. Runkle, Esq., at \$2 per head.

This tract lies well watered by the Tarrytown and Ironbridge Creeks. The soil is of a rich deep black loam.

**GIBBAN.**  
Estimated area, 15,000 acres; unstocked.  
Improvements are, No. 4-rumped house and stockyard.  
The station is watered by an artificial system.  
**CULSON LAKE.**  
Estimated area, 15,000 acres; unstocked.  
Improvements are, a 4-rumped albin house, large dam, stockyard, well; grass paddock quarter of a mile square.  
Further information may be obtained at our office  
Messrs. BLACKMAN and CONWAY, Madag.



